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RECEIVED and FILED by the
NEW JERSEY STATE BOARD OF
VETERINARY MEDICAL EXAMINERS
on this date of: 7/6/11

By: Olga E. Bradford
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STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF VETERINARY MEDICAL EXAMINERS

IN THE MATTER OF

DAVID L. FOSTER, D.V.M.

TO PRACTICE VETERINARY MEDICINE
IN THE STATE OF NEW JERSEY

Administrative Action

CONSENT ORDER

This matter was opened to the State Board of Veterinary Medical Examiners (hereinafter referred to as the "Board") following the Board's review of information indicating that respondent David L. Foster, D.V.M., may have engaged in conduct in violation of the Veterinary Medical Practice Act, codified at N.J.S.A. 45:16-1 et seq., and its accompanying regulations, codified at N.J.A.C. 13:44-1.1 et seq. Specifically, the information suggested that the respondent had engaged in professional misconduct in the alleged veterinary care he had

provided to "Mighty Mouse," a thirteen (13) year old pony owned by A. L-M. in 2009.

Dr. Foster appeared at an October 13, 2010, investigative inquiry before the Board with legal counsel, Cathy L. Waldor, Esquire. At this inquiry, he testified that, in 2009, he was asked by a client, a farm owner who boarded horses, to tell A. L-M. that he had euthanized Mighty Mouse due to illness. According to the respondent, the farm owner contended that farm workers had discovered Mighty Mouse dead in his stall and that the remains had been removed prior to Dr. Foster's arrival at the farm. The farm owner then told A. L.-M. that Dr. Foster had euthanized the horse, instead of having found the horse dead. The farm owner requested the respondent's assistance in this misrepresentation. Dr. Foster maintained at the inquiry that he had never seen and/or treated the horse. Dr. Foster therefore testified that he: 1) lied to A. L.-M. and told her that he had euthanized Mighty Mouse; 2) prepared, and issued to A. L.-M., a receipt for the euthanasia services; and 3) accepted payment for veterinary services that he never performed.

The Board, following its review of Dr. Foster's testimony and the relevant documents submitted in this matter, found that Dr. Foster engaged in the use of dishonesty, deception and misrepresentation, contrary to N.J.S.A. 45:1-21(b), and professional misconduct, in violation of N.J.S.A. 45:1-21(e), in that he lied to a client representing to her that he had rendered

certain veterinary services to her horse and accepted fees for services he did not perform. The Board concludes that the facts as detailed above establish a basis for disciplinary action.

The parties desiring to resolve this matter without the need for further disciplinary proceedings; and the respondent acknowledging and not contesting the findings of the Board and waiving his rights to a hearing in this matter; and the Board having been satisfied that the within resolution adequately protects the public health, safety and welfare, and for good cause shown:

IT IS, THEREFORE, ON THIS 28th DAY OF JUNE 2011,

ORDERED THAT:

1. Respondent David L. Foster, D.V.M., is hereby formally reprimanded for his violations of N.J.S.A. 45:1-21(b) and (e).

2. Dr. Foster shall cease and desist from further violations of N.J.S.A. 45:1-21(b) and (e).

3. The license of the respondent to practice veterinary medicine in the State of New Jersey is hereby suspended for a period of twelve (12) months with all twelve months of the suspension stayed to be served as a period of probation.

4. Dr. Foster shall pay a civil penalty in the aggregate amount of **\$5,000.00** for engaging in the use of dishonesty, deception and misrepresentation, contrary to N.J.S.A.

45:1-21(b), and professional misconduct, in violation of N.J.S.A. 45:1-21(e). Payment of the civil penalty shall be submitted contemporaneously with the signing of this Order, by certified check or money order, made payable to the State Board of Veterinary Medical Examiners and shall be forwarded to Francine Widrich, Acting Executive Director, Board of Veterinary Medical Examiners, 124 Halsey Street, Sixth Floor, Post Office Box 45020, Newark, New Jersey 07101. Subsequent violations will subject respondent to enhanced penalties subject to N.J.S.A. 45:1-25.

In the alternative, the respondent may pay the civil penalty, totaling **\$5,000.00**, in equal monthly installment payments of **\$208.00** for a total twenty-three (23) months. The twenty-fourth (24th) and final payment will total **\$216.00**. The first payment shall be paid simultaneously with submission of this Order with subsequent payments due on the fifteenth of each month thereafter until the total amount is paid in full.

Any failure to make any installment payment within ten (10) days of the due date shall cause the entire remaining balance to become immediately due and payable without further notice. Further, failure to pay the penalty within the time period allotted above will result in the filing of a Certificate of Debt, including the applicable interest permitted by the New Jersey Court Rules, and may result in subsequent disciplinary proceedings before the Board for failure to comply with an Order of the Board.

5. Dr. Foster shall pay the Board's investigative costs in this matter in the amount of **\$520.60**. Such costs shall be paid by certified check or money order made payable to the State of New Jersey and submitted to the State Board of Veterinary Medical Examiners at 124 Halsey Street, Post Office Box 45020, Newark, New Jersey 07101, contemporaneously with the entry of this Order.

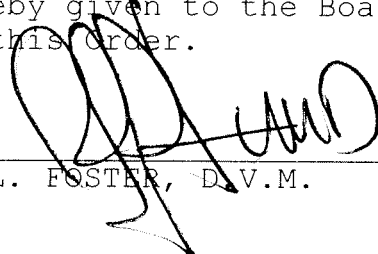
6. Failure to comply with any of the provisions of this Consent Order or remit any and all payments required by this Order will result in the filing of a certificate of debt and may result in subsequent disciplinary proceedings for failure to comply with an Order of the Board.

NEW JERSEY STATE BOARD OF
VETERINARY MEDICAL EXAMINERS

By: Mark W. Logan VMD
MARK W. LOGAN, V.M.D.
President

I have read and understand the
within Consent Order and agree

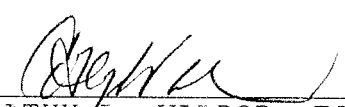
to be bound by its terms. Consent
is hereby given to the Board to
enter this order.



DAVID L. FOSTER, D.V.M.

DATED: 6/18/11

Consent as to form and entry.



CATHY L. WALDOR, ESQUIRE
Waldor and Carlesimo
Attorney for David L. Foster, D.V.M.

DATED: 6/21/11